

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

UNITED STATES OF AMERICA

Plaintiff,

CASE NO.: 7:19-CR-00004

Defendant 2

July 10, 2020

Roanoke, Virginia

Sentencing Hearing

-V-

JAMES M. HALE,

Before:

HONORABLE MICHAEL F. URBANSKI

CHIEF UNITED STATES DISTRICT JUDGE

WESTERN DISTRICT OF VIRGINIA

Defendant.

APPEARANCES

For the Plaintiff:

RONALD ANDREW BASSFORD

United States Attorneys Office
310 First Street, S.W. Room 906
Roanoke, VA 24008
540-857-2935
andrew.bassford@usdoj.gov

For the Defendant:

CORREY AUSTIN DIVINEY

ARTHUR P STRICKLAND, P.C.
PO Box 2866
Roanoke, VA 24001-2866
540-982-7787
correy@stricklandattorne

Mary J. Butenschoen, RPR, CRR
210 Franklin Road, S.W., Room 540
Roanoke, Virginia 24011
540-857-5100, Ext. 5312

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY; TRANSCRIPT
PRODUCED BY COMPUTER.

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5 **LAQUONDA SAUNDERS**

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1 (Proceedings commenced 11:05 a.m.)

2 THE COURT: All right. Good morning. Please call
3 the case.

4 THE CLERK: All right. This is the *United States of*
5 *America v. James M. Hale*, Criminal Action Number 7:19-CR-4,
6 Defendant 2.

7 THE COURT: Okay. Mr. Bassford and Mr. Diviney,
8 good morning. What we're going to do for at least during this
9 phase of the reopening from the Coronavirus is we're going
10 to -- I will have counsel to act as if this is a state court
11 matter and just remain seated at counsel table and speak into
12 the microphones there so that the court reporter can hear you.
13 That way it keeps folks from sharing a podium. And so I'll be
14 happy to hear from you, Mr. Bassford, and you, Mr. Diviney,
15 from counsel table. You may remain seated as well and then
16 I'll hear from Mr. Hale as well.

17 Okay. This case has been set down today for
18 sentencing. Is the United States ready to proceed?

19 MR. BASSFORD: Yes, Your Honor.

20 THE COURT: And Mr. Diviney, is Mr. Hale ready to
21 proceed?

22 MR. DIVINEY: He is, Your Honor.

23 THE COURT: Okay. Let's recap where we are in this
24 case. Mr. Hale was charged in an indictment with Tyrek Kelly.
25 Mr. Kelly was charged in the first three counts and Mr. Hale

1 was charged in Count Four. And Count Four was a 922(g)
2 violation, and that is possession of a firearm by a prohibited
3 person. There was -- there was some pretrial matters that
4 took place in this case, and we are proceeding in this guilty
5 plea I believe without a plea agreement; is that right?

6 MR. DIVINEY: That's right, Your Honor.

7 THE COURT: I thought that because there was a
8 motion to suppress that the Court denied, and so that motion
9 to suppress remains something that the defendant, if he wants
10 to, can take up on appeal, okay.

11 We did a -- right before the trial in this case, the
12 scheduled trial in this case, we did a guilty plea hearing at
13 which Mr. Hale plead guilty to being a felon in possession.
14 That took place on -- no, I'm sorry. I was thinking of a
15 different case.

16 Mr. Hale appeared before the Court and plead guilty
17 on December the 27th, 2019, and without a plea agreement. I
18 ordered a presentence report. I accepted his plea at that
19 time, though, when I looked at the minute sheet. So it's
20 purely a question today of sentencing.

21 The Court has read the sentencing memos. I
22 appreciate them. The Court has read the presentence report.
23 I also got a letter from Mr. Hale that I read, and I got two
24 other notes that were just recently docketed from Laquonda
25 Saunders and from Laericka Thomas, and I read those as well.

1 I take it -- let me start out this way. Mr. Hale,
2 do you remain fully satisfied with the advice and
3 representation provided by your lawyer, Mr. Diviney, in this
4 case?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: Okay, good. This case is a case that
7 bears the penalty of from zero to ten years incarceration, a
8 period of supervised release of not more than three years, a
9 maximum fine of up to \$250,000, and a \$100 mandatory special
10 assessment.

11 I have reviewed the presentence report. Has each
12 side had an opportunity to review the presentence report and
13 consider whether any objections need to be made, Mr. Bassford?

14 MR. BASSFORD: Yes, Your Honor.

15 THE COURT: And Mr. Diviney?

16 MR. DIVINEY: We have, Your Honor.

17 THE COURT: You've gone over that with Mr. Hale?

18 MR. DIVINEY: I have, Your Honor.

19 THE COURT: Okay. All right. There -- I did not
20 note any objections that were made to the presentence report.
21 Are there any additional objections that you-all would like to
22 raise at this time?

23 MR. BASSFORD: No, Your Honor.

24 THE COURT: Mr. Diviney?

25 MR. DIVINEY: No, sir.

1 THE COURT: Okay. Let me go ahead and make -- I'm
2 going to accept the presentence report as written, and let me
3 go ahead and make guidelines findings, please.

4 This is an offense under 2K2.1 of the guidelines,
5 and that bears a base offense level of a 24. There are no
6 enhancements or reductions, and the defendant is credited with
7 three points for acceptance of responsibility.

8 I assume, Mr. Bassford, the government is moving for
9 all three points?

10 MR. BASSFORD: Yes, Your Honor.

11 THE COURT: Okay. Leaves him with a total offense
12 level of a 21.

13 Then we get to the part about Mr. Hale's case that
14 is the most troubling, and that is his prior criminal history.
15 I studied Mr. Hale's prior criminal history. It starts at age
16 19 when he was convicted of criminal conspiracy to engage in
17 robbery in York, Pennsylvania. He got three criminal history
18 points for that conviction. And he actually received jail
19 time for that -- that charge in Pennsylvania.

20 In 2009 after he got out he was convicted of
21 possession with the intent to deliver marijuana and false
22 identification to law enforcement authorities, also in York,
23 Pennsylvania. He received a custodial sentence. And also
24 three criminal history points for that.

25 In 2012 he was convicted of an offense of burglary

1 and obstruction of justice also in York, Pennsylvania, and
2 received a custodial sentence. Also three criminal history
3 points for that conviction.

4 Paragraph 35 of the presentence report refers to
5 another conviction, this time in 2017, for possession with the
6 intent to deliver cocaine. The defendant received a custodial
7 sentence. Also received probation. And according to the
8 presentence report, there is a -- an active warrant out of
9 Pennsylvania for a probation violation.

10 Ms. Burns, does that remain correct?

11 PROBATION: Your Honor, I tried to contact the
12 authorities there to confirm that, and as far as they know it
13 is still active at this time.

14 THE COURT: Okay. All right. So do we know how
15 that's going to work with his -- I mean, will he go serve his
16 federal sentence and then have to go deal with the state
17 warrant? Do you know how that's going to work?

18 PROBATION: That's typically how it works.

19 THE COURT: Yeah, he wasn't -- he was arrested on
20 Virginia state charges, and those are picked up federally. So
21 those will be served first and that warrant on the probation I
22 think will serve as a detainer.

23 Does anybody else -- do counsel have a different
24 understanding?

25 MR. BASSFORD: No, Your Honor. I think that's

1 correct.

2 MR. DIVINEY: That's my understanding, Judge.

3 THE COURT: All right. In 2016 he picks up his
4 first offense in Roanoke, and that was providing false
5 identification to a law enforcement officer. That was in
6 General District Court in the City. And he gets one criminal
7 history point for that.

8 He does have some other convictions, driving
9 suspended in Fincastle and a couple of convictions in West
10 Virginia, but those have no criminal history points.

11 When you total up all those criminal history points,
12 that is a criminal history score of 13, but he was -- he
13 was -- he gets two points because he was under a criminal
14 justice sentence from the cocaine conviction in York,
15 Pennsylvania. Puts him at a criminal history -- criminal
16 history category -- score of 15, and it doesn't matter because
17 13 or more puts him in criminal history category VI. So we
18 have -- he is at the highest criminal history category. And
19 as Mr. Bassford notes in his sentencing memo, these aren't
20 just an accumulation of minor offenses. These are offenses
21 that involve violence. These are offenses that involve drug
22 dealing. So this is serious -- this is serious criminal
23 history that he comes into this court for.

24 And because of that criminal history with an offense
25 level of 21 and a criminal history category VI makes his

1 guidelines 77 to 96 months.

2 Now, let's see, I've read the -- any objection to
3 the Court's guidelines calculations in this case?

4 MR. BASSFORD: No, Your Honor.

5 MR. DIVINEY: No, sir.

6 THE COURT: Okay. I have -- I've read the
7 sentencing memos in this case, and the government is asking
8 for low end of the guidelines at 77 months. And Mr. Diviney
9 is asking for a variance down below the guidelines to 48
10 months. And so I'm happy to hear any evidence you want to put
11 on or I'm happy to hear any -- any argument.

12 Do you have any evidence, Mr. Bassford?

13 MR. BASSFORD: No, Your Honor.

14 THE COURT: And Mr. Diviney?

15 MR. DIVINEY: Judge, I have one witness,
16 Ms. Laquonda Saunders, who wrote a letter and would like to be
17 heard as well, Judge.

18 THE COURT: All right. Have her come up. We're
19 going to have her sit right in the middle of the jury box
20 right there and be sworn. Just right in front of that speaker
21 bar there.

22 THE CLERK: Ma'am, will you raise your right hand,
23 please.

24 LAQUONDA SAUNDERS, CALLED BY DEFENDANT, SWORN

25 THE COURT: All right. Go ahead, Mr. Diviney.

1 DIRECT EXAMINATION

2 BY MR. DIVINEY:

3 Q Ma'am, would you state your name for the Court, please?

4 A Laquonda Saunders.

5 Q Would you spell your first name?

6 A It's spelled L-A-Q-U-O-N-D-A.

7 Q Thank you. How do you know Mr. Hale?

8 A I'm in a relationship with him.

9 Q All right. And how long has that relationship lasted to
10 date?

11 A About three years.

12 Q Okay. And did you-all meet here in Roanoke?

13 A Yes, sir.

14 Q Is this where you're from?

15 A Yes.

16 Q You've lived here your whole life?

17 A Yes, born and raised.

18 Q Okay. How did you meet?

19 A Through a friend.

20 Q Okay. And you-all have a baby girl together who is in
21 the courtroom; is that right?

22 A Yes, sir.

23 THE COURT: And she's being very good. I will note,
24 she's being -- she's a year old -- a year old, right?

25 THE WITNESS: Yes.

1 THE COURT: And she's being very good, so that's
2 excellent.

3 THE WITNESS: Thank you.

4 BY MR. DIVINEY:

5 Q Why don't you tell the Court a little bit about Mr. Hale
6 or the Mr. Hale that you know.

7 A Well, the Mr. Hale that I know is a very kind person.
8 He's a giving person, a caretaker. He'll give his life if he
9 had it. He has a very, very good heart.

10 Q There was some mention made in your letter about his
11 relationship to his grandfather. Do you know his
12 grandfather?

13 A Yeah, Mr. Pumpkin.

14 Q What's his name?

15 A We call him Mr. Pumpkin.

16 Q Mr. Pumpkin.

17 A Uh-huh.

18 Q That's not his name.

19 A No, that's just his nickname everybody calls him.

20 Q He lives in the neighborhood.

21 A Yes.

22 Q And you've known his grandfather for a long time?

23 A Yes, I've known him for a long time. Before I met him.

24 Q Do you have any guess as to how old his grandfather is?

25 A About 80. Almost 80, if not.

1 Q And what is Mr. Hale's relationship with his
2 grandfather?

3 A They are very close. He's like his caretaker, I'll say.
4 He used to be there for him all the time. Every day he will
5 check on him, make sure he has everything he needs as far --

6 Q Have you been over there with him?

7 A Yes, I have.

8 Q And what kind of stuff does he do for his grandfather?

9 A He'll help him with everyday living as far as bathing
10 him, getting him ready for the day, store runs --

11 Q Have you helped him bathe his grandfather?

12 A Yes.

13 Q All right. What do you do for a living?

14 A Who, Mr. Pumpkin?

15 Q What do you do for a living?

16 A What do I do? I am a CNA.

17 Q So you know something about that.

18 A Yes. I take care of old people for a living.

19 Q Have you helped Mr. Hale learn how to do that?

20 A Yes.

21 Q I'm assuming you're asking the Court to show some
22 leniency so that Mr. Hale can play a more active personal role
23 in his daughter's life; is that right?

24 A Yes, I am, yes, sir.

25 Q Has he ever held his baby?

1 A No, he has not. I was pregnant when he got in.

2 Q Do you have anything else you'd like to tell the Court?

3 A No, sir. That will be all.

4 MR. DIVINEY: Thank you. I don't have any other
5 questions.

6 MR. BASSFORD: No questions, Your Honor.

7 THE COURT: Thank you, Ms. Saunders. I appreciate
8 that.

9 THE WITNESS: You're welcome.

10 (Witness excused.)

11 THE COURT: Mr. Diviney, do you have other witnesses
12 you'd like to call?

13 MR. DIVINEY: I do not. Mr. Hale has some things
14 he'd like to say at the appropriate time.

15 THE COURT: We'll have argument and then we'll hear
16 allocution from Mr. Hale.

17 Mr. Bassford?

18 MR. BASSFORD: Your Honor, I think my memo lays it
19 out pretty well. There's just not a lot of reason to come off
20 the guidelines. And but for the grace of *Davis* and the fact
21 that conspiracy to rob is not the predicate anymore, Mr. Hale
22 would have been an armed career criminal, and that would have
23 been a significant problem for him today.

24 THE COURT: Well, it would have been 180 months
25 mandatory minimum.

MR. BASSFORD: Yes, Your Honor.

THE COURT: Up to life.

MR. BASSFORD: Yes. So he does not have a good record. So all of the things that we think about, protection of the community, or respect for the law, deterrence, all of those come into play here. So the guidelines are what we're -- are what they are, and the government just doesn't see a reason to come below the guidelines.

THE COURT: All right, Mr. Bassford. Thank you.

Mr. Diviney, let's hear from you, sir. And I read your memo and I appreciate it.

MR. DIVINEY: Thank you, Your Honor.

You know, there's nothing I can say about Mr. Hale's criminal history to make it any different than what it is, and I regret that for Mr. Hale, and he himself regrets that -- that you can take up three or four pages there describing some of the really bad things and dumb things that he's done in his life. And it is what it is.

And that said, you know, we are not just the sum of our worst mistakes, and Mr. Hale is not just the person that he's been on those days that ended in terms of incarceration. And, you know, he's learned something in the last 20 months. I think he'd like to tell the Court a little bit about that, and he wants to be a different person. And, Judge, I personally think 48 months is enough time to sit and think

1 about how are you going to do something different in the
2 future, and, certainly, for someone like Mr. Hale how he can
3 never touch a firearm of any kind again ever in his life. And
4 so we're asking for a 48-month sentence, Your Honor.

5 THE COURT: All right, Mr. Diviney. Thank you for
6 that.

7 Mr. Hale, we've heard from Ms. Saunders and I've
8 read the letters that she and -- that she provided, along with
9 a letter from Ms. Thomas. I've read your letter, heard from
10 Mr. Bassford, I've heard from the -- your lawyer.

11 What would you like to tell me by way of allocution
12 that might be helpful to me in fashioning an appropriate
13 sentence in this case?

14 THE DEFENDANT: Your Honor, I -- I've been in
15 Roanoke City Jail for about a year and a half, almost two.
16 It's been the hardest time for me with my daughter being born
17 here, you know, with my age and having what, you know, other
18 elements that, you know, exist today. I know my criminal
19 history isn't like great. I know I made some dumb decisions
20 in life, including, you know, my decision to carry a firearm
21 in this case.

22 But none of that describes who I am today. I --
23 I've grown past it. I'm -- I want to be so much more than
24 what's on paper. I am more than what's on paper. I just --
25 I'm asking that, you know, you guys have mercy on my

1 situation. I'm not -- I don't have any excuse. All I -- all
2 I can say is that I'm better than this, and I will be better
3 than this, and I will do better. In the end I just ask that
4 you guys have mercy on me. That's all, Your Honor.

5 THE COURT: All right, Mr. Saunders, thank you for
6 that -- I'm sorry, Mr. Hale, thank you for that.

7 The Court starts each sentencing with a
8 consideration of the advisory sentencing guidelines. They
9 are -- they are a place to begin and a benchmark before
10 considering the 3553(a) factors. The guidelines in this case
11 at a low end is 77 months and a high end of 96 months, and
12 those are entirely reflective of the defendant's criminal
13 history in this case.

14 The government argues that the -- that Mr. Hale
15 chose to arm himself and get into a vehicle with a drug
16 dealer, and that's when he was caught with Mr. Kelly with this
17 firearm. The government focuses much of its argument on the
18 criminal history that we have spoken about and notes that this
19 criminal history isn't built up just by a number of driving
20 suspendeds or minor larceny charges. These are serious
21 offenses involving violence and drugs and a criminal history
22 category of VI.

23 The government notes the defendant does have and has
24 had a difficult upbringing resulting in significant substance
25 abuse and some mental health issues, and the government asks

1 all things considered for the low end of the guidelines, 77
2 months.

3 It's not often that the government asks for the low
4 end of the guidelines, and I -- I take that into
5 consideration, and I appreciate that.

6 The defendant, in his sentencing memo and here today
7 in argument, requested downward variance to 48 months. The
8 defendant notes that the guidelines are correctly calculated
9 at 77 to 96 months and argues that this is a victimless crime.

10 Well, having guns in the hands of persons who are
11 convicted, and in this case having a gun in the presence of
12 someone who is dealing drugs, although there's no suggestion
13 that Mr. Hale was involved in Kelly's drug dealing, I can't
14 agree that this is a, quote, unquote, victimless crime.

15 Having a gun near a drug dealing activity is a dangerous
16 proposition, and people get shot every day. So I don't agree
17 that this is a victimless crime. There's a reason why the
18 statute provides for folks who are felons not to possess
19 firearms, and here we have someone who has did just that.

20 I do note the -- as the defendant notes in his
21 sentencing memo the struggles that the defendant has had with
22 addiction and the mental health issue that surfaced when
23 Mr. Hale was incarcerated in Pennsylvania, anxiety and
24 depression, and the medication he received there and is
25 continuing to take today at the Roanoke City Jail.

1 I have to quote from Mr. Diviney's well-articulated
2 sentencing memo about Mr. Hale's history. Mr. Diviney writes:
3 A uniquely tragic childhood devoid of any semblance of
4 emotional or material stability, without parental support or
5 supervision and fraught with exposure to incapacitating
6 substance abuse and violence.

7 All of that's true. It's just true. Mr. Hale grew
8 up in a situation where both of his parents were addicts,
9 ended up dying at age 28 from AIDS. He went to live with his
10 uncle in Pennsylvania, and that wasn't a good situation.
11 Although I have to tell you, in Mr. Hale's letter, he
12 doesn't -- even though he was subjected to some violence
13 there, I thought he was -- I thought he very gently dealt with
14 his uncle's situation. He went to live in a foster home. For
15 a period of time he lived with his uncle's ex-wife, and I
16 think that was probably the best influence he had, at least
17 according to his letter, growing up.

18 But he took off after that and has really been
19 engaged in -- he's had some jobs. He's been a forklift
20 operator at a couple of different places. But those haven't
21 seemed to stick and he has been involved in crime and spent a
22 bunch of his time already in his life in jail in state court.
23 I note that he has spent 19 months in custody in this case.

24 And I do want to say that I get a lot of letters
25 from folks who are asking for leniency prior to sentencing.

1 And I thought Mr. Hale's letter was one of the most thoughtful
2 and reflective ones that I have received. There was one part
3 in particular where he said, "In evolving and changing for the
4 better, I've learned to practice self reflection and self
5 accountability. There is really no making up for time lost,
6 but there is still time to live better."

7 That sort of self-reflection and
8 self-accountability, that self-awareness, to some extent,
9 comes with maturity. No more blaming others. No more blaming
10 your past. Be accountable for your own conduct. And I
11 appreciate that. I thought it was a thoughtful letter.

12 So what to do. You know, I agree with Mr. Bassford
13 in large measure that the goals of punishment, protection,
14 deterrence, respect for the law, require a significant
15 sentence, because today the only thing that has deterred
16 Mr. Hale from being involved in criminal activity has been
17 being incarcerated. Protecting the public has required him to
18 be incarcerated. So I get that. And the goals of punishment
19 in this case call for a significant period of incarceration.

20 But there is that other goal of rehabilitation, and
21 that other goal of recognizing what Mr. Hale put in his letter
22 about his growing maturity, self-accountability,
23 self-reflection, recognizing that there are things in life
24 that he wants to accomplish, and he can't do any of that
25 behind bars.

1 So I'm going to grant the defendant's motion for a
2 variance. I'm going to vary down below the guidelines in this
3 case. And I do that for a number of reasons. One, Mr. Hale
4 had a very difficult childhood. Extremely difficult
5 childhood. He speaks in his letter of being really at a very
6 young age having to be the man of the house. Hiding money
7 from drug addicts to pay the bills. Unfortunately, he is a
8 product of what -- how he grew up. And he has lived a life
9 that is -- that while there's been some employment and that he
10 took some community college courses in management in
11 Pennsylvania, he has lived a life of crime and drug dealing.
12 And at this point he was in a drug dealer's car with a gun in
13 November 2018. He does suffer from anxiety and depression,
14 and he's got serious substance abuse issues. The presentence
15 report notes that he asks for mental health treatment and
16 counseling, and I certainly will recommend that to the Bureau
17 of Prisons.

18 I think taking into account the balance under the
19 3553(a) factors of the defendant's history and
20 characteristics, his difficult upbringing, his significant
21 criminal history, I think a sentence of 65 months is
22 sufficient, but not greater than necessary, in this case, and
23 that's the sentence I'm going to impose in this case. It is
24 12 months below the guidelines, and I varied downwards because
25 of his personal characteristics, and I believe his -- the

1 maturity he has shown since he has been incarcerated to note
2 self-reflection, self-accountability and move forward and
3 hopefully not return to a life of crime.

4 I'm going to put him on supervised release for a
5 period of three years. Upon supervised release, he must
6 comply with the following mandatory conditions of
7 supervision:

8 He must not commit another federal, state, or local
9 crime. That's any kind of crime. You'll be on supervision,
10 you'll be accountable to this Court, and, if you commit
11 another crime, I will put you in jail.

12 You cannot unlawfully possess, buy, sell, or use a
13 controlled substance. And that includes any controlled
14 substance, including marijuana. You use those, you possess
15 those, you have those, I will put you in jail.

16 You cannot have anything to do with a firearm. You
17 can't even touch -- you can't even go into a gun store and
18 touch a gun. You cannot possess a firearm, ammunition,
19 dangerous device, destructive weapon. And if you do that, I
20 will put you in jail.

21 I'm going to require drug testing to ensure
22 compliance with the prohibition against use of controlled
23 substances.

24 I'm going to require cooperation in the collection
25 of DNA as directed by the probation officer.

1 I'm going to require that the defendant comply with
2 the mandatory and standard conditions of supervision in
3 this -- that this Court has adopted:

4 The defendant will be subject to warrantless search
5 and seizure to ensure compliance of these conditions upon a
6 finding by the probation officer of reasonable suspicion that
7 the defendant has violated a condition of his supervision.

8 Following the defendant's release from imprisonment,
9 the Court will evaluate his status and determine whether,
10 after incarceration, additional mental health treatment and
11 counseling and drug treatment and counseling are necessary and
12 appropriate. And so I'm going to order when he gets out a
13 mental health evaluation and a substance abuse evaluation. If
14 that evaluation calls for additional rehabilitation and
15 treatment, the defendant shall participate in the program as
16 designated by the Court upon consultation with the probation
17 officer until such time as the defendant has satisfied all the
18 requirements of the program.

19 Again, he cannot possess a firearm, and he cannot
20 live in a residence where there are any firearms, ammunition,
21 destructive devices, and dangerous weapons.

22 Mandatory special assessment of a hundred dollars.

23 I'm going to impose a fine of \$100 to allow the
24 defendant to participate in the Bureau of Prisons' financial
25 accountability program. The fine is below the guideline range

1 because of an inability to pay.

2 I'm going to require him to pay a lump sum payment
3 of a hundred dollars immediately, and during the term of
4 imprisonment payment in equal monthly installments of \$25 or
5 25 percent of the defendant's income, whichever is less, to
6 commence 60 days after the date of his judgment.

7 And if there's any left over after he gets out,
8 equal monthly installments of \$25 to commence 60 days after
9 his release.

10 I hereby advise the defendant that he has a right to
11 appeal this sentence. Notice of appeal must be filed within
12 14 days of the entry of judgment, or within 14 days of a
13 notice of appeal by the government. If requested, the clerk
14 will prepare and file a notice of appeal on behalf of the
15 defendant.

16 I also advise the defendant of a right of a person
17 who is unable to pay the cost of an appeal to apply for leave
18 for appeal without prepayment of such costs.

19 Anything else from -- probation, have I missed
20 anything regarding the terms and conditions of supervision?

21 PROBATION: No, Your Honor.

22 THE COURT: Mr. Bassford, anything else from you?

23 MR. BASSFORD: No, Your Honor.

24 THE COURT: Mr. Diviney?

25 MR. DIVINEY: Only one thing, Your Honor -- and I

1 keep forgetting not to stand up.

2 THE COURT: That's okay.

3 MR. DIVINEY: He would like a recommendation that he
4 be sent to Manchester, Kentucky.

5 THE COURT: Is there a reason for that?

6 MR. DIVINEY: Do you have a specific reason?

7 No, sir.

8 THE COURT: I'll recommend that. He's obviously
9 looked into it and seems like that might -- if it's consistent
10 with his security classification. You know, the Bureau of
11 Prisons can do what they want in terms of where they house
12 someone, but I'll certainly put in the judgment that the
13 defendant requests to be -- have his sentence served in
14 Manchester, Kentucky.

15 If there's nothing further, ask the marshal to
16 declare a recess.

17 THE MARSHAL: All rise.

18 (The proceedings concluded at 11:39 a.m.)

19 **CERTIFICATE**

20 I, Mary J. Butenschoen, certify that the foregoing
21 is a correct transcript from the record of proceedings in the
22 above-entitled matter.

23 /s/ Mary J. Butenschoen, RPR, CRR

24 9/18/2020

25